

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MANOUCHEHR NIKPOUR, M.D.,

Plaintiff,

Case No. 05-70226

vs.

HON. GEORGE CARAM STEEH

KENNETH ANDREWS, MD
JOSEPH NAUGHTON, DO, MIKE AJJOUR, M.D
ARSENIO DELEON, M.D.
ST. JOSEPH MERCY OF MACOMB, an
Assumed name of MERCY MOUNT CLEMENS
CORPORATION, a Delaware Non-Profit
Corporation,

Defendants.

_____ /

ORDER DENYING DEFENDANT'S MOTION TO STRIKE,
FOR ATTORNEY FEES AND FOR SANCTIONS [NO. 13] AND
PLAINTIFF'S MOTION FOR SANCTIONS [NO. 15] WITHOUT
PREJUDICE AND ORDER TO SHOW CAUSE REGARDING JURISDICTION

This matter is before the Court on defendant St. Joseph Mercy of Macomb's motion to strike and motion for attorney's fees and sanctions [document no. 13] and plaintiff Manouchehr Nikpour, M.D.'s counter motion for Rule 11 sanctions [document no. 15]. The issue of federal subject matter jurisdiction has never been formally addressed, and the Court will not resolve any of the motions pending before it as long as the issue of jurisdiction is unresolved. Defendant removed plaintiff's complaint from Macomb County Circuit Court on the basis of federal question jurisdiction based on the Fourteenth Amendment and the Health Care Quality Immunity Act of 1986 ("HCQIA"),

42 U.S.C. §11101, *et seq.* Neither the Fourteenth Amendment nor the HCQIA appear in the complaint, though both are discussed in the plaintiff's motion to show cause filed in state court. Now, therefore,

IT IS HEREBY ORDERED that defendant's motion to strike and motion for attorney's fees and sanctions is DENIED without prejudice.

IT IS HEREBY FURTHER ORDERED that plaintiff's motion for Rule 11 sanctions is DENIED without prejudice.

IT IS HEREBY FURTHER ORDERED that defendant show cause why this Court has jurisdiction over this matter, in writing, on or before March 22, 2006. Plaintiff must then respond, in writing, on or before April 7, 2006. Defendant may file a reply brief no later than April 19, 2006.

It is so ordered.

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: March 7, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on March 7, 2006, by electronic and/or ordinary mail.

S/Josephine Chaffee
Secretary/Deputy Clerk